

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

BENONI AMPONSAH,

Plaintiffs,

v.

DIRECTV, LLC, et al.,

Defendants.

Case No. 1:14-cv-03314-ODE

**PLAINTIFFS' MOTION FOR LEAVE TO AMEND COMPLAINT
AND MEMORANDUM IN SUPPORT**

Plaintiffs move for leave to file a First Amended Complaint pursuant to Rule 15 of the Federal Rules of Civil Procedure. Plaintiffs' proposed First Amended Complaint has been filed contemporaneously in accord with Local Rule 15.1. Under Federal Rule of Civil Procedure 15(a)(2), "a party may amend its pleading only with the opposing party's written consent or the court's leave. The court should freely give leave when justice so requires." Fed. R. Civ. P. 15(a)(2). This language establishes a presumption in favor of granting parties leave to amend, unless a substantial reason exists to deny it, such as undue delay or prejudice, dilatory motive, or futility of amendment. *See Halliburton & Assoc. v. Henderson,*

Few & Co., 774 F.2d 441, 443 (11th Cir. 1985). Plaintiffs assert that this is their first time to seek amendment, there has been no undue delay, prejudice will not result from permitting such amendment, and amendment will not be futile.

Per the Court's Order of April 15, 2015, (Doc. 43), Plaintiffs now seek leave to amend their Complaint to address the deficiencies identified by the Court in its Order at pp. 11-12 and 19-20. *See* Proposed First Amended Complaint, attached hereto, at ¶¶ 1-20, 27-44. 164. In the main, these amended allegations explain the control MasTec and Multiband exerted over the plaintiffs through their implementation of DIRECTV's policies. Plaintiffs also made some edits to "clean up" certain language (including the full name of "Kerry Brian Page")¹ and removed from the Amended Complaint a technician whose claims are time-barred. When read as a whole, and in the light most favorable to Plaintiffs, these facts allow for the inference that MasTec and Multiband were employers under the FLSA.

WHEREFORE Plaintiffs pray the Court enter an order granting leave for them to file their Proposed First Amended Complaint and for such other and further relief as the Court deems just and proper.

¹ In its Order the Court noted that it could not locate Mr. Page's consent form to join in the *Lang* case. It was filed on September 12, 2009 as part of Doc. 326 under the name "Brian Page." The relevant portion of *Lang* Doc. 326 is attached hereto.

Respectfully submitted this 15th day of May, 2015.

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Local Rule 7.1D Certification

Counsel for Plaintiffs hereby certifies that the text of this memorandum has been prepared with Times New Roman 14 point, one of the fonts and point selections approved by the Court in Local Rule 5.1B.

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CERTIFICATE OF SERVICE

I hereby certify that on this day I have electronically filed the foregoing
PLAINTIFFS' MOTION FOR LEAVE TO AMEND COMPLAINT
AND MEMORANDUM IN SUPPORT with the Clerk of the Court using the
CM/ECF system, which will automatically send an e-mail notification of such
filing to all attorneys of record.

Dated this 15th day of May, 2015.

/s/ David A. Bain

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